



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,043	08/29/2001	Todd L. Rose	DAKTRONICS	8467

7590 04/14/2003

HUGH D. JAEGER, P.A.
1000 Superior Blvd., Suite 302
Wayzata, MN 55391-1873

EXAMINER

GREEN, BRIAN

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/943,043

Applicant(s)

ROSE, TODD L.

Examiner

Brian K. Green

Art Unit

3611

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 22-30 is/are allowed.
- 6) ☒ Claim(s) 3-14, 16-21 and 31-37 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on Jan. 13, 2003 have been approved.

The proposed formal drawings filed on Jan. 13, 2003 are acceptable.

Specification

The proposed substitute specification filed on 1/13/03 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3,4,6,11-14, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Boatman (U.S. Patent No. 3,988,845).

Boatman shows in figures 1-3 an enclosure (12) including a front panel (10 or 13a,14a,17a,18a) and a rail (28) “for” preventing accidental falls mounted on the top panel (13). In regard to claim 2, the front panel (10) is considered to be removable as broadly defined, i.e. the rivets used to mount the panel (10) can be broken which would allow the panel to be removed. In regard to claim 11, the enclosure includes a rear panel (20 or 13b,14b,17b,18b). In regard to claims 12-14, the rear panel is considered to be (13b,14b,17b,18b) which includes a cutout which is covered by an access panel (20) which is considered to be removable. In regard

Art Unit: 3611

to claim 21, the top panel (13) is formed from channel stock, see figures 1 and 3 which shows that the top panel includes portions 13a and 13b.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Tucker (U.S. Patent No. 6,314,669).

Tucker shows in figures 1-8 an electronic sign enclosure comprising a front panel (26), a rear panel (24), a cutout in the rear panel that includes an access cover (140) over the cutout, an "angled" top panel (20), end panels and bottom panel, and mounting brackets (46n, 166, 168, and the bracket located below 46n) on the rear panel. In regard to claim 35, Tucker shows in figure 4 a top panel (the panel just below panel 20) that is located below the angled top panel (20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman (U.S. Patent No. 3,988,845) in view of Pick et al. (U.S. Patent No. 2,867,306).

Boatman discloses the applicant's basic inventive concept except for making the rail tubular. Pick et al. shows in figures 1-4 the idea of making a rail (10) tubular. In view of the

Art Unit: 3611

teachings of Pick et al. it would have been obvious to one in the art to modify Boatman by replacing the rail with the type taught by Pick et al. since this would allow the sign enclosure to be carried in an easier and more comfortable manner as taught by Pick et al., column 1, lines 25-30.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman (U.S. Patent No. 3,988,845) in view of Bauer et al. (U.S. Patent No. 5,259,089).

Boatman discloses the applicant's basic inventive concept except for making the ends of the rail threaded with nuts engaging the ends of the rails. Bauer et al. shows in figures 1-5 a rail (32,25) having threaded ends (25) and a nut (31) engaging the threads in order to secure the rail to a device. In view of the teachings of Bauer et al. it would have been obvious to one in the art to modify Boatman by replacing the rail with the type taught by Bauer et al. since this would allow the rail to be attached to and removed from the enclosure in a faster and easier manner.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatman (U.S. Patent No. 3,988,845) in view of Tucker (U.S. Patent No. 6,314,669).

Boatman discloses the applicant's basic inventive concept except for attaching brackets to the rear panel. Tucker shows in figures 1-7 the idea of attaching upper and lower brackets (46n, 166, 168, and the bracket below 46n) to the rear panel of a display. In view of the teachings of Tucker it would have been obvious to one in the art to modify Boatman by attaching brackets to the rear panel since this would allow the device to be attached and removed from a vertical support surface in an easier and faster manner.

Claims 32-34,36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tucker (U.S. Patent No. 6,314,669).

In regard to claim 32, Tucker discloses the use of rivets to attach the rear panel. The use of bolts to attach panels is conventional in the art. It would have been obvious to one in the art to attach the rear panel with bolts since this would allow the device to be disassembled in an easier and faster manner which would allow the device to be shipped and stored in a more compact manner. In regard to claims 33,34,36, and 37, it would have been an obvious manner of design choice to make the panels of channel stock since the applicant fails to disclose any advantage to making the panels in the form of channel stock and the non-channel stock used by Tucker would work equally well.

Applicant's arguments with respect to claims 3-14,16-21, and 31-37 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Werner, McLaughlin et al., Dagiell et al., and Werner teach the use of barriers attached to the edge of a structure. Claridge teaches the use of a sign having brackets thereon. Mohamed teaches the use of a sign having an access panel on a rear surface thereof.

Claims 1,2,22-30 are allowed.

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Art Unit: 3611

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.


BRIAN K. GREEN
PRIMARY EXAMINER

bkg
April 5, 2003